

**A-Engrossed**  
**House Bill 3453**

Ordered by the House June 28  
Including House Amendments dated June 28

Sponsored by COMMITTEE ON RULES

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Provides that Governor may proclaim, in affected counties, public safety fiscal emergency, with unanimous agreement of President and Minority Leader of Senate and Speaker and Minority Leader of House of Representatives. Allows for consolidation or merger of units of local government and for intergovernmental agreements for purpose of providing services. Allows for imposition of income tax assessment on residents of affected counties, with maximum rate to be specified in proclamation and with approval of county governing body.]*

*[Declares emergency, effective on passage.]*

**Provides that Governor may proclaim public safety fiscal emergency for one or more counties where fiscal conditions compromise county ability to provide minimally adequate level of public safety services. Following proclamation and with consent of governing bodies of affected counties, permits establishment of intergovernmental agreement to provide for performance of public safety services and equally shared funding of services by state and affected counties. Provides alternative means for affected counties to raise revenue and suspends requirement that affected county tax measures receive approval of county electors.**

**Repeals Act on January 2, 2018.**

**Takes effect on 91st day following adjournment sine die.**

**A BILL FOR AN ACT**

1  
2 Relating to public safety fiscal emergencies; creating new provisions; amending ORS 203.055; ap-  
3 propriating money; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. The purposes of sections 2 to 10 of this 2013 Act are to reduce the loss of**  
6 **life, injury to persons or property and suffering that result from public safety fiscal emer-**  
7 **gencies and to provide for recovery and relief assistance. These public safety objectives are**  
8 **to be accomplished by creating cooperation among units of local government and granting**  
9 **the Governor the power to act on behalf of units of local government. The provisions of this**  
10 **section shall be liberally construed.**

11 **SECTION 2. (1) If the Governor determines that fiscal conditions exist or are imminent**  
12 **in one or more counties that compromise the ability of the affected counties to provide a**  
13 **minimally adequate level of public safety services, the Governor may proclaim a public safety**  
14 **fiscal emergency.**

15 **(2) Prior to declaring a public safety fiscal emergency, the Governor shall consult with**  
16 **the Senate President, the Majority and Minority Leaders of the Senate, the Speaker of the**  
17 **House of Representatives, the Majority and Minority Leaders of the House of Representatives**  
18 **and each Senator and Representative whose district is wholly or partially within a county**  
19 **that is proposed to be subject to the public safety fiscal emergency.**

20 **(3) The Governor shall specify in a proclamation made pursuant to this section each**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 county in which the public safety fiscal emergency has occurred or is imminent. The area  
2 specified in the proclamation shall be as small as necessary to allow for an effective response  
3 to the emergency, but may not be smaller than a single county.

4 (4) As used in sections 2 to 10 of this 2013 Act, "local government" means a county.

5 **SECTION 3.** (1) Whenever the Governor has proclaimed a public safety fiscal emergency  
6 pursuant to section 2 of this 2013 Act, the Governor may, on behalf of a unit of local gov-  
7 ernment within the area covered by the proclamation and only after obtaining written au-  
8 thorization signed by a majority of the governing body of each local government subject to  
9 the proclamation, enter into a written intergovernmental agreement with any other unit of  
10 local government, whether inside or outside the area covered by the proclamation, for the  
11 performance of functions and activities related to public safety that a unit of local govern-  
12 ment that is party to the agreement or its officers or agencies have authority to perform.

13 (2) ORS 190.010 applies to the performance of a function or activity pursuant to an  
14 intergovernmental agreement entered into under subsection (1) of this section.

15 (3)(a) The state shall bear 50 percent of the cost of public safety services provided under  
16 the intergovernmental agreement entered into under subsection (1) of this section.

17 (b) The counties that are parties to the intergovernmental agreement entered into under  
18 subsection (1) of this section shall bear the remaining 50 percent, which may be funded  
19 through:

20 (A) An income tax as provided in section 7 of this 2013 Act;

21 (B) A tax on telecommunications services with access to the 9-1-1 emergency reporting  
22 system under section 8 of this 2013 Act;

23 (C) Any assessment the county governing body is lawfully capable of imposing, to the  
24 extent the governing body determines that the other assessment is necessary to satisfy the  
25 county's funding obligations;

26 (D) Existing sources of county revenue; or

27 (E) Any combination of funding described in this paragraph.

28 **SECTION 4.** (1) An intergovernmental agreement entered into under section 3 of this 2013  
29 Act must specify the functions or activities to be performed and by what means the func-  
30 tions or activities shall be performed.

31 (2) Where applicable and subject to section 3 of this 2013 Act, the intergovernmental  
32 agreement shall provide for:

33 (a) Apportionment among the parties to the agreement of the responsibility for providing  
34 funds to pay for expenses incurred in the performance of the functions or activities.

35 (b) Apportionment of fees or other revenue derived from the functions or activities and  
36 the manner of accounting for the fees or other revenue.

37 (c) The transfer of personnel and the preservation of their employment benefits.

38 **SECTION 5.** (1) A unit of local government that is designated, in an intergovernmental  
39 agreement entered into under section 3 of this 2013 Act, to perform functions or activities  
40 is vested with all powers, rights and duties relating to those functions and activities that are  
41 vested by law in each party to the agreement and its officers and agencies.

42 (2) An officer designated in an intergovernmental agreement entered into under section  
43 3 of this 2013 Act to perform duties, functions or activities of two or more public officers  
44 shall be considered to be holding one office.

45 **SECTION 6.** (1) An intergovernmental entity created by an intergovernmental agreement

1 entered into under section 3 of this 2013 Act may, according to the terms of the agreement,  
2 adopt all rules necessary to carry out the intergovernmental entity's powers and duties un-  
3 der the intergovernmental agreement.

4 (2) Except as provided in section 3 (3) of this 2013 Act, the debts, liabilities and obli-  
5 gations of an intergovernmental entity shall be, jointly and severally, the debts, liabilities and  
6 obligations of the parties to the intergovernmental agreement that created the intergovern-  
7 mental entity, unless the agreement specifically provides otherwise.

8 (3) A party to an intergovernmental agreement creating an intergovernmental entity may  
9 assume responsibility for specific debts, liabilities or obligations of the intergovernmental  
10 entity.

11 (4)(a) Moneys collected by or credited to an intergovernmental entity may not inure to  
12 the benefit of any private person. Upon dissolution of the intergovernmental entity, title to  
13 all assets of the intergovernmental entity shall vest in the parties to the intergovernmental  
14 agreement that created the intergovernmental entity.

15 (b) The intergovernmental agreement creating the intergovernmental entity must pro-  
16 vide a procedure for:

17 (A) The disposition, division and distribution of any assets acquired by the intergovern-  
18 mental entity during the term of the intergovernmental agreement that created the inter-  
19 governmental entity; and

20 (B) The assumption of any outstanding indebtedness or other liabilities of the intergov-  
21 ernmental entity by the parties to the intergovernmental agreement that created the inter-  
22 governmental entity.

23 (5) ORS 190.110 applies to all parties to, and all intergovernmental entities created by,  
24 an intergovernmental agreement entered into under section 3 of this 2013 Act.

25 **SECTION 7.** (1) To carry out the purposes of sections 2 to 6 of this 2013 Act, counties  
26 within the area covered by the proclamation made pursuant to section 2 of this 2013 Act may  
27 impose a tax:

28 (a) Upon the entire taxable income of every resident of the area who is subject to tax  
29 under ORS chapter 316 and upon the taxable income of every nonresident that is derived  
30 from sources within the area which income is subject to tax under ORS chapter 316; or

31 (b) On or measured by the net income of a mercantile, manufacturing, business, finan-  
32 cial, centrally assessed, investment, insurance or other corporation or entity taxable as a  
33 corporation doing business, located, or having a place of business or office or having income  
34 derived from sources, within the area which income is subject to tax under ORS chapter 317  
35 or 318.

36 (2) A tax imposed pursuant to this section shall require the adoption of an ordinance by  
37 the governing body of each county authorizing a tax under this section. The Governor may  
38 not act on behalf of a county governing body in authorizing a tax under this section.

39 (3) The tax may be imposed and collected as a surtax upon the state personal income or  
40 corporate income or excise tax.

41 (4) Any tax imposed pursuant to this section shall require a nonresident, corporation or  
42 other entity taxable as a corporation having income from activity both within and without  
43 the area taxable under subsection (1) of this section to allocate and apportion such net in-  
44 come to the area in the manner required for allocation and apportionment of income under  
45 ORS 314.280 and 314.605 to 314.675.

1 (5) If a county governing body adopts an ordinance under this section, the ordinance shall  
2 be compatible with any state law establishing taxable income or relating to the adminis-  
3 tration, collection or enforcement of any tax law of this state, and with any rules adopted  
4 by the Department of Revenue under ORS 305.620 or otherwise.

5 (6) An ordinance adopted under this section may not declare an emergency.

6 (7) This section does not apply to a county that is subject to a charter that prohibits the  
7 imposition of county income taxes.

8 **SECTION 8.** (1) To carry out the purposes of sections 2 to 6 of this 2013 Act, counties  
9 within the area covered by the proclamation made pursuant to section 2 of this 2013 Act may  
10 impose a tax on each paying retail subscriber who has telecommunication services with ac-  
11 cess to the 9-1-1 emergency reporting system, to the extent the governing body determines  
12 that the tax is necessary to satisfy the county's funding obligations under section 3 (3)(b)  
13 of this 2013 Act.

14 (2) A county governing body that elects to impose a tax under this section may do so by  
15 adopting an ordinance that establishes the rate and duration of the tax, but in all other re-  
16 spects the tax must be imposed in accordance with ORS 403.200 to 403.230, except that:

17 (a) The tax may be imposed on subscriber lines of subscribers whose place of primary  
18 use, as defined under 4 U.S.C. 124, is within the county imposing the tax; and

19 (b) Net revenues, after the payment of refunds, from the tax imposed under authority  
20 of this section shall be transferred from the suspense account described in ORS 403.235 as  
21 prescribed in section 8a of this 2013 Act.

22 (3) The Governor may not act on behalf of a county governing body in authorizing a tax  
23 under this section.

24 **SECTION 8a.** Moneys in the suspense account described in ORS 403.235 that are attrib-  
25 utable to a county tax imposed under section 8 of this 2013 Act, after the payment of refunds,  
26 are continuously appropriated to the Department of Revenue for distribution to the counties  
27 that imposed the tax.

28 **SECTION 8b.** To carry out the purposes of sections 2 to 6 of this 2013 Act, counties  
29 within the area covered by the proclamation made pursuant to section 2 of this 2013 Act may  
30 impose any other assessment the governing body is lawfully capable of imposing, to the ex-  
31 tent the governing body determines that the assessment is necessary to satisfy the county's  
32 funding obligations under section 3 (3)(b) of this 2013 Act. The Governor may not act on be-  
33 half of a county governing body in authorizing an assessment under this section.

34 **SECTION 9.** (1) A public safety fiscal emergency proclaimed pursuant to section 2 of this  
35 2013 Act terminates after 18 months unless the Governor extends the public safety fiscal  
36 emergency for a stated amount of time up to 18 additional months. The Governor shall con-  
37 sult with the Senate President, the Majority and Minority Leaders of the Senate, the Speaker  
38 of the House of Representatives, the Majority and Minority Leaders of the House of Repre-  
39 sentatives and each Senator and Representative whose district is wholly or partially within  
40 a county that is subject to the public safety fiscal emergency.

41 (2) The Governor shall terminate a public safety fiscal emergency by proclamation when  
42 the emergency no longer exists or the threat of an emergency has passed.

43 (3) The public safety fiscal emergency proclaimed by the Governor may be terminated  
44 at any time by action of the Legislative Assembly.

45 (4) A termination of a public safety fiscal emergency shall apply to:

1 (a) Income and excise tax years beginning on or after January 1 following the termi-  
2 nation; and

3 (b) Other tax or assessment reporting periods beginning on or after the first day of the  
4 first calendar quarter following the termination.

5 (5) Prior to the termination of a public safety fiscal emergency, the local governments  
6 that are parties to an intergovernmental agreement entered into under section 3 of this 2013  
7 Act may adopt an ordinance ratifying the creation of the intergovernmental entity to con-  
8 tinue the entity beyond the termination of the emergency. The ratifying ordinance shall be  
9 consistent with ORS 190.085.

10 **SECTION 10.** The Legislative Assembly finds and declares that providing a coordinated  
11 and comprehensive response to a local or regional public safety fiscal emergency is a matter  
12 of state concern. The Legislative Assembly also finds that the imposition of a tax or assess-  
13 ment described in section 7, 8 or 8b of this 2013 Act is an integral component of any coordi-  
14 nated and comprehensive response, but the Legislative Assembly further finds that an  
15 income tax imposed under section 7 of this 2013 Act may not be imposed if the imposition  
16 would contradict a county charter that expressly prohibits a county income tax under any  
17 circumstance.

18 **SECTION 11.** ORS 203.055 is amended to read:

19 203.055. (1) **Except as provided in subsection (2) of this section,** any ordinance, adopted by  
20 a county governing body under ORS 203.035 and imposing, or providing an exemption from, taxation  
21 shall receive the approval of the electors of the county before taking effect.

22 (2) **A tax or assessment may be imposed under section 7, 8 or 8b of this 2013 Act upon**  
23 **the taking effect of an ordinance adopted by the governing body of the county that so pro-**  
24 **vides. An emergency may not be declared in an ordinance described in this subsection.**

25 **SECTION 12.** ORS 203.055, as amended by section 11 of this 2013 Act, is amended to read:

26 203.055. [(1) *Except as provided in subsection (2) of this section,*] Any ordinance, adopted by a  
27 county governing body under ORS 203.035 and imposing, or providing an exemption from, taxation  
28 shall receive the approval of the electors of the county before taking effect.

29 [(2) *A tax or assessment may be imposed under section 7, 8 or 8b of this 2013 Act upon the taking*  
30 *effect of an ordinance adopted by the governing body of the county that so provides. An emergency may*  
31 *not be declared in an ordinance described in this subsection.*]

32 **SECTION 13.** The amendments to ORS 203.055 by section 12 of this 2013 Act become op-  
33 erative on January 2, 2018.

34 **SECTION 14.** Sections 1 to 10 of this 2013 Act are repealed on January 2, 2018.

35 **SECTION 15.** Nothing in the repeal of sections 1 to 10 of this 2013 Act by section 14 of  
36 this 2013 Act affects the validity of any of the following entered into before the repeal of  
37 sections 1 to 10 of this 2013 Act:

38 (1) **A proclamation of a public safety fiscal emergency pursuant to section 2 of this 2013**  
39 **Act;**

40 (2) **An intergovernmental agreement entered into under section 3 of this 2013 Act;**

41 (3) **A tax or assessment entered into under section 7, 8 or 8b of this 2013 Act; or**

42 (4) **An extension of a proclamation made under section 9 of this 2013 Act.**

43 **SECTION 16.** This 2013 Act takes effect on the 91st day after the date on which the 2013  
44 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.